

**PURCHASE AND SALE AGREEMENT BETWEEN
THE CITY OF SAN PABLO
AND
CONTRA COSTA COUNTY**

This Agreement is entered into by and between the City of San Pablo, a municipal corporation of the State of California (hereinafter "City") and Contra Costa County, a political subdivision (hereinafter "County").

R E C I T A L S

- A. On January 18, 2018, Contra Costa Local Agency Formation Commission (LAFCO) adopted Resolution No. 18-08A initiating dissolution of the Rollingwood Wilart Park & Recreation District (RWPRPD).
- B. On August 8, 2018, County was named successor agency of RWPRPD. All assets and liabilities of RWPRPD were transferred to County including approximately 0.21 acres of real property located in Contra Costa County, California described as Parcel Number 416-074-004. The real property commonly known as 2395 Greenwood Drive, San Pablo includes all improvements and fixtures, the two story building and parking lot; all rights, privileges and easements appurtenant of County to and for the benefit of the Property, including, without limitation, all minerals, oil, gas and other hydrocarbon substances, air rights, water, water rights and water stock relating to the Property and any other appurtenances relating to or used in connection with the ownership, operation, use, occupancy or enjoyment of the Property; all personal property located on or in or used in connection with the Property and its improvements and appurtenances are collectively referred to as the "Property".

A G R E E M E N T

NOW THEREFORE, in consideration of the agreements herein contained and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. **Effective Date.** It is understood that this Agreement is subject to approval by the City's Council. This Agreement will be submitted to the County first for approval, and thereafter to City. This Agreement is effective on the date approved by Grantee's City Council ("Effective Date").
2. **Transfer.** Subject to the terms and conditions in this Agreement, County agrees to transfer and City agrees to accept the Property subject to California Code - GOV §25365.
3. **Conditions to Close of Escrow.**
 - 3.1. Nuisance Abatement. The County shall remedy the violations identified in the Notice of Pending Nuisance Abatement Proceeding executed by the Contra Costa County Department of Conservation & Development, recorded on August 15, 2018, Instrument No. 2018-129880, Official Records ("Abatement Notice"), including but not limited to the removal of debris, litter and vehicles.3.2. Title. The County shall remove the Abatement Notice from title on the Property.
 - 3.3. Certificate of Compliance. The City shall obtain a Certificate of Compliance indicating that the Property complies with the Subdivision Map Act; the Property has the following zoning designation: R6; and there is no issue or proceeding with the land use, zoning or code enforcement at least 15 days before Close of Escrow.

4. **Escrow.** By this Agreement, City and County establish an escrow ("Escrow") with Chicago Title Company, 2150 John Glenn Dr., Suite 400, Concord, California, their Escrow No. 36301245-363 ("Title Company"). If, for any reason, the named Title Company is unable to handle this transaction through the Close of Escrow, City's Real Property Agent assigned to oversee this Property transaction will select an alternate title company to handle the transaction, and notify County in writing of the identity and address of the successor title company and the new escrow number. Thereafter, the successor company will be the "Title Company" for purposes of this Agreement. County and City will prepare joint escrow instructions and file escrow instructions with said Title Company in accordance with this Agreement. This includes authorization of the Title Company to withhold pro rata taxes, liens, and assessments on the Property conveyed.

4.1. Fees and Title Insurance. City shall pay all escrow and recording fees incurred in this transaction and, if title insurance is desired by City, the premium charged therefor.

4.2. County's Deposit into Escrow. On or before the Close of Escrow County will deliver into Escrow with the Title Company the following documents:

a) A grant deed, in recordable form and properly executed on behalf of County, in a form approved by City ("Grant Deed") conveying to City the Property in fee simple absolute, subject to all Exceptions identified in Title Report No. 36301245-363 dated October 22, 2018 except Exception 5 regarding a pending Notice of Pending Nuisance Abatement Proceeding that shall be removed prior to Close of Escrow as set forth in Section 3 above.

4.3. City's Deposit into Escrow. On or before the Close of Escrow, City will deliver into Escrow with the Title Company the following documents:

a) A certificate of acceptance, in recordable form and properly executed on behalf of City indicating acceptance of the Grant Deed.

4.4. Close of Escrow. Escrow shall close upon the conveyance of the Property to City ("Close of Escrow"). On the closing date, the Title Company shall close Escrow as follows:

a) "Record the Grant Deed, marked for return to City care of Charles Ching, Community and Economic Development Director (which shall be deemed delivery to City) and the City's Certificate of Acceptance;

b) Issue the Title Policy, if requested to do so by City;

c) Prorate taxes, assessments, and other charges as provided by this Agreement;

d) Prepare and deliver to City and to the County one signed copy of the Title Company's closing statement showing all receipts and disbursements of the Escrow.

If the Title Company is unable to simultaneously perform all of the instructions set forth above, the Title Company shall notify the County and City and retain all documents pending receipt of further instructions from City.

5. **County's Representations and Warranties.** County makes the following representations and warranties with the understanding that these representations and warranties are material and are being relied upon by City. County represents and warrants to City that as of the date of this Agreement and as of the Close of Escrow:

5.1. Marketable Title. County is the owner of the Property and has marketable and insurable fee simple title to the Property clear of leases subject only to all Exceptions. No leases, licenses, or other agreements allowing any third party rights to use the Property are or will be in force unless prior consent has been given by the City in writing. Commencing with the full execution of this Agreement by both parties and until the Close of Escrow, County shall not permit any liens,

encumbrances or easements to be placed on the property other than the Exceptions already listed in the Title Report, nor shall County enter into any agreement that would affect the Property that would be binding on the City after the Close of Escrow without the prior written consent of City.

- 5.2. Condition of Property. County did not receive information, reports, agreements, studies, maps or correspondence from the prior owner of the Property, Rollingwood Wilart Park Recreation & Park District, and all information, reports, agreements, studies, plans or correspondence that County has about the Property have been disclosed to City. County has no building plans or other permits, approvals, studies, plans, entitlements, inspections or tests related to the Property. County has disclosed to City all information, records and studies maintained by County in connection with the Property concerning hazardous substances and that County is not concealing any knowledge of the presence of contamination or hazardous substances on, from or under the Property. Any information that County has delivered to the City either directly or through County's agents is accurate and County has disclosed all material facts with respect to the Property.
- 5.3. Other Matters Affecting Property. To the best of County's knowledge, there are not presently any actions, suits, or proceedings pending or, to the best of County's knowledge, threatened against or affecting the Property or the interest of County in the Property or its use that would affect County's ability to consummate the transaction contemplated by this Agreement. Further, there are not any outstanding and unpaid arbitration awards or judgments affecting title to any portion of the Property. To the best of County's knowledge there are not presently any pending or threatened condemnation, eminent domain or similar proceedings affecting the Property. County shall promptly notify City of any of these matters arising in the future.
- 5.4. County's Agency. That this Agreement and all other documents delivered prior to or at the Close of Escrow have been authorized, executed, and delivered by County; are binding obligations of the County; and are collectively sufficient to transfer all of County's rights to the Property.

City and County acknowledge: (1) Federal, state, and local legislation impose liability upon existing and former owners and users of real property, in applicable situations, for certain legislatively defined, environmentally hazardous substances, if any on or potentially affecting the property; and (2) City and County are each advised to consult with technical and legal experts concerning the existence, testing, discovery, location and evaluation of/for, and risks posed by, environmentally hazardous substances, if any, located on or potentially affecting the property.

6. **City's Representations and Warranties.** City warrants that, upon approval of this Agreement by City's governing body, this Agreement shall constitute a binding obligation of City.
7. **"AS-IS" Condition of the Property.** Except as set forth in Sections 4 and 7 of this Agreement, City acknowledges and agrees that, under the terms of this agreement, the County is transferring and City is accepting the property on an "as is with all faults" basis, and that City is not relying on any representations or warranties of any kind whatsoever, express or implied, from County as to any matters concerning the property including, without limitation: (1) The physical quality, nature, adequacy, and condition of the property, including soils, geology, and any groundwater, (2) the existence, quality, nature, adequacy, and physical condition of utilities serving the property, (3) the development potential of the property, and the property's use, merchantability, fitness, suitability, value, or adequacy for any particular purpose, (4) the zoning or other legal status of the property or any other public or private restrictions on use of the property, (5) the compliance of the property or its operation with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person or entity, (6) the presence of hazardous materials, as defined below, on, under, or within the property or any adjoining or neighboring property, (7) the condition of title property, and (8) the economics of the operation of the property. For the purposes of this section 8, "Hazardous Materials" means and substance, material, or waste which is or may become designated, classified or regulated as being "Toxic", "Hazardous", or a "pollutant" under any federal or state law or regulation.

8. **HAZ MAT CLAUSE. 1030.f (Not Tested-Unknown Hazardous Material Use)**

The County hereby represents and warrants that during the period of County's ownership of the property, there have been no disposals, releases or threatened releases of hazardous substances or hazardous waste on, from, or under the property. County further represents and warrants that County has no knowledge of any disposal, release, or threatened release of hazardous substance or hazardous waste on, from, or under the property which may have occurred prior to County taking title to the property.

9. **Survival.** All of the terms, provisions, representations, warranties and covenants of the parties under this Agreement shall survive the assignment, expiration or termination of this Agreement and shall not merge in the deed or other documents following the delivery and recordation of said deed or other documents.
10. **Right of Entry.** From and after the Effective Date of this Agreement and at all times until this Agreement is terminated or title vests to City, City shall have the right (at all reasonable times with advance notice to County) to enter on the Property for the purposes of City, including but not limited to conducting studies, space planning and construction drawings for improvements. City will indemnify and hold County harmless against any damages or costs arising from City or City's designated persons' entry onto the Property, including but not limited to attorneys' fees and costs.
11. **Notices.** All notices (including requests, demands, approvals or other communications) under this Agreement shall be in writing. The place for delivery of all notices given under this Agreement shall be as follows:

County: Real Estate Division Public Works Department
255 Glacier Drive
Martinez, CA 94553
Telephone: (925) 957-2464
Attn: Stacey Sinclair, Senior Real Property Agent

City: City of San Pablo
13831 San Pablo Avenue
San Pablo, CA 94806
Telephone: (510) 215-3000
Attn: City Manager

or to such other addresses as City and County may respectively designate by written notice to the other.

12. **Entire Agreement.** The parties have herein set forth the whole of their agreement. The performance of this Agreement constitutes the entire consideration for said document and shall relieve City of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed public improvement. County has no other right or claim to compensation arising out of or connected with the acquisition of the subject property by City, except as specifically set forth in this Agreement, including but not limited to all claims for compensation for improvements pertaining to realty, all claims for compensation for fixtures, equipment or machinery, attorneys' fees, costs or damages of every kind and nature by reason of City's acquisition of the subject property and agrees never to assert such a claim.
13. **Construction.** The section headings and captions of this Agreement are, and the arrangement of this instrument is, for the sole convenience of the parties to this Agreement. The section headings, captions and arrangement of this instrument do not in any way affect, limit, amplify or modify the terms and provisions of this Agreement. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared it. The parties to this Agreement and their counsel have read and reviewed this Agreement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Agreement. The Recitals are and shall be enforceable as a part of this Agreement.
14. **Further Assurances.** Whenever requested to do so by the other party, each party shall execute, acknowledge and deliver all further conveyances, assignments, confirmations, satisfactions, releases,

powers of attorney, instruments of further assurance, approvals, consents and all further instruments and documents as may be necessary, expedient, or proper in order to complete all conveyances, transfers, sales, and assignments under this Agreement, and do all other acts and to execute, acknowledge, and deliver all documents as requested in order to carry out the intent and purpose of this Agreement.¹⁵

Seller's Indemnity. County agrees to indemnify, defend, protect and hold harmless City, and its officers, officials, employees and agents, from and against any and all loss, cost, liability, damage, claim and/or expense including, without limitation, attorneys' fees and costs and court costs, incurred by City in connection with or arising from any breach by County of any of the representations and warranties made by County in this Agreement.

16. **Waiver.** A waiver or breach of any covenant or provision in this Agreement shall not be deemed a waiver of any other covenant or provision in this Agreement, and no waiver shall be valid unless in writing and executed by the waiving party
17. **Severability.** If any term or provision of this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement shall not be affected.

(The rest of this page is intentionally left blank)

18. **Governing Law.** This Agreement shall be governed and construed in accordance with California law.

**COUNTY OF CONTRA COSTA, a political
Subdivision of the State of California**

CITY OF SAN PABLO

By _____
Brian M. Balbas
Director of Public Works

By _____
Matt Rodriguez
City Manager

RECOMMENDED FOR APPROVAL:

RECOMMENDED BY:

By _____
Jessica L. Dillingham
Principal Real Property Agent

By _____
Charles Ching
Community & Economic Development
Director

By _____
Stacey Sinclair
Senior Real Property Agent

APPROVED AS TO FORM:
SHARON L. ANDERSON, COUNTY COUNSEL

APPROVED AS TO FORM:

By _____
Kathleen M. Andrus
Deputy County Counsel

By _____
Lynn Tracy Nerland
City Attorney

ATTESTED BY:

By _____
Patricia Ponce
City Clerk

NO OBLIGATION OTHER THAN THOSE SET FORTH HEREIN WILL BE RECOGNIZED

SS:
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